IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 968 of 1998
With
CIVIL APPLICATION No 11866 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANCHANBEN H VORA

Versus

STATE OF GUJARAT

Appearance:
MR NV ANJARIA for Petitioner
GOVERNMENT PLEADER for Respondent No. 1
MR AR THACKER for Respondent No. 3
NOTICE SERVED for Respondent No. 4

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/06/2001

ORAL JUDGEMENT

#. Rule. Mr.A.R.Thacker waives service of rule on behalf of respondent No.3.

#. The petitioner has filed this petition against the action of the respondents in not finalising her pension papers. The petitioner has retired on 31.5.1997 from one Sheth G.T.High School. It seems that prior to joining respondent No.4 school, the petitioner was serving with some other school i.e. respondent No.3 for whom Mr.A.R.Thacker, learned advocate is appearing. Even though the petitioner is retired since long, the State Government is not finalising her pension case. It seems that the petitioner has put in all 33 years of service and in the last school the petitioner seems to have served for 9 years i.e. Sheth G.T.High School and prior to that she was serving with respondent No.3 school.

#. Mr.Anjaria argued that in many cases, break in service is condoned by the Government and the Government may take the decision taking into consideration such past precedents.

#. Under the circumstances, in my view, while finalising the pension case of the petitioner, the Government may consider the question about the services rendered by the petitioner in earlier school i.e. respondent No.3 and may also consider the question of condoning the break in service in accordance with law so that the petitioner may not be a loser in the matter of receiving pension. The petitioner is a retired person and she may not have to continue without pension for such a long period. The decision in finalising the pension case of the petitioner shall be taken as early as possible and in any case latest by 31.10.2001. The respondent nos.3 and 4 are directed to submit necessary details regarding fixation of pay of the petitioner to the concerned District Education Officer forthwith and the District Education Officer thereafter shall submit necessary papers to the State Government so that the pension case of the petitioner may be finalised. Since respondent No.4 has not to incur any financial burden, they should not delay the matter further and will send the service record of the petitioner regarding fixation of pension forthwith. The Government shall also pay the arrears if it is required to be paid to the petitioner forthwith after finalising her pension case. It is also clarified that if any further detail is required to be furnished by the petitioner to the District Education Officer, she is at liberty to do so and in turn the District Education Officer shall submit the said detail to the State Government so that final decision may be taken within a

stipulated time. In case, the decision is against the petitioner, it will be open for the petitioner to challenge the same in accordance with law. Accordingly, the petition succeeds and the same is allowed to the aforesaid extent. Rule is made absolute with no order as to costs.

#. In view of the above order, no order in Civil Application No.11866 of 2000. The petitioner is at liberty to serve this order to the authorities by way of direct service.

(P.B.Majmudar,J)
(pathan)